

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK**

DARRYL BOYD,

Plaintiff,

- against -

THE CITY OF BUFFALO, *et al.*,

Defendants.

Case No. 1:22-cv-519

JOHN WALKER, JR.,

Plaintiff,

- against -

THE CITY OF BUFFALO, *et al.*,

Defendants.

Case No. 1:22-cv-520

**DECLARATION OF JOEL B. RUDIN IN OPPOSITION TO
DEFENDANTS' MOTIONS FOR SUMMARY JUDGMENT**

JOEL B. RUDIN, an attorney admitted to practice in the State of New York, hereby declares pursuant to 28 U.S.C. § 1746, under the penalties of perjury, as follows:

1. I am an attorney of record for Plaintiffs John Walker, Jr. and Darryl Boyd, am fully familiar with the facts and circumstances relevant to this case, and make this Declaration in opposition to Defendants' Motions for Summary Judgment.

2. A true and correct copy of a statement by Debbie Jeffrey, dated January 6, 1976, is attached hereto as Exhibit 1.¹

¹ While this document is among the Defendants' submissions, we are submitting a more legible copy.

3. True and correct copies of two pages of handwritten notes made by David Henry during the *People v. Martin* trial are attached hereto as Exhibit 2.

4. A true and correct copy of the Respondent's Brief in *People v. Boyd*, dated July 29, 1981, is attached hereto as Exhibit 3.

5. A true and correct copy of Article 240 of the New York State Criminal Procedure Law, as of 1976-77, is attached hereto as Exhibit 4.

6. True and correct copies of photographs from the Buffalo Police Department's William Crawford Homicide File are attached hereto as Exhibit 5.

7. A true and correct copy of the expert report of Christopher Puckett is attached hereto as Exhibit 6.

8. A true and correct copy of the expert report of Alan Hirsch, dated February 28, 2024, is attached hereto as Exhibit 7.

9. A true and correct copy of the City Court Information/Complaint in *People v. Gibson, et al.*, dated January 12, 1976, attaching a statement by Tyrone Woodruff, dated January 12, 1976, is attached hereto as Exhibit 8.

10. A true and correct copy of a page of handwritten notes made by Timothy Drury is attached hereto as Exhibit 9.

11. A true and correct copy of a transcript of the Grand Jury testimony of Andre Hough, dated February 11, 1976, is attached hereto as Exhibit 10.

12. A true and correct copy of a transcript of the Grand Jury testimony of Tyrone Woodruff, dated February 11, 1976, is attached hereto as Exhibit 11.

13. A true and correct copy of a transcript of the Grand Jury testimony of Paul Delano, dated February 11, 1976, is attached hereto as Exhibit 12.

14. A true and correct copy of the omnibus motion filed by James McLeod in *People v. Martin*, dated March 25, 1976, is attached hereto as Exhibit 13.

15. A true and correct copy of Deposition Exhibit 68, a set of documents related to pretrial discovery in *People v. Gibson, et al.*, is attached hereto as Exhibit 14.

16. A true and correct copy of a handwritten statement by Andre Hough, dated June 29, 1977, is attached hereto as Exhibit 15.

17. A true and correct copy of a transcript of the testimony of Andre Hough at a hearing in *People v. Martin*, dated July 11, 1977, is attached hereto as Exhibit 16.

18. A true and correct copy of an affidavit of Andre Hough, dated October 1, 1982, is attached hereto as Exhibit 17.

19. A true and correct copy of a transcript of a deposition of Tyrone Woodruff, dated November 1, 1985, is attached hereto as Exhibit 18.

20. A true and correct copy of a transcript of a deposition of Tyrone Woodruff, dated April 6, 2010, is attached hereto as Exhibit 19.

21. A true and correct copy of a video of an interview of Byron Lockwood in 2021 is attached hereto as Exhibit 20 and is available at <https://perma.cc/JWX4-RP3U>.

22. A true and correct copy of a video of a press conference by John Flynn on August 18, 2021, is attached hereto as Exhibit 21 and is available at <https://perma.cc/JWX4-RP3U>.

23. A true and correct copy of a transcript of the dismissal of the indictments in *People v. Boyd and Walker*, dated September 23, 2021, is attached hereto as Exhibit 22.

24. True and correct copies of City of Buffalo Common Council Proclamations honoring John Walker, Jr. and Darryl Boyd are attached hereto as Exhibit 23.

25. A true and correct copy of *An Investigation of Law Enforcement in Buffalo*, a report by the New York State Commission of Investigation, dated January 1961, is attached hereto as Exhibit 24.

26. A true and correct copy of *People v. Robinson*, 13 N.Y.2d 296 (1963), is attached hereto as Exhibit 25.

27. A true and correct copy of *People v. Robinson*, Ind. No. 27,774 (Erie Cnty. Ct. Dec. 29, 1967), is attached hereto as Exhibit 26.

28. A true and correct copy of a transcript of the deposition of Nils Olsen, dated January 2, 2024, is attached hereto as Exhibit 27.

29. A true and correct copy of *People v. Robinson*, 31 A.D.2d 724 (4th Dep't 1968), is attached hereto as Exhibit 28.

30. A true and correct copy of *Robinson v. Smith*, 451 F. Supp. 1278 (W.D.N.Y. 1978), is attached hereto as Exhibit 29.

31. A true and correct copy of *Robinson v. Smith*, No. 78-2068 (2d Cir. Sept. 15, 1978), is attached hereto as Exhibit 30.

32. A true and correct copy of *People v. Golwitzer*, 52 Misc.2d 925 (Sup. Ct., Erie Cnty. 1966), is attached hereto as Exhibit 31.

33. True and correct copies of excerpts of the trial transcript in *People v. Ward and Anderson*, Ind. No. 36,973 (Erie Cnty.), are attached hereto as Exhibit 32.

34. A true and correct copy of the Appellants' Brief in *People v. Ward and Anderson*, dated January 3, 1973, is attached hereto as Exhibit 33.

35. A true and correct copy of *Retry or Free Attica Inmate, Judge Rules*, an article in the Buffalo Evening News, dated June 13, 1981, is attached hereto as Exhibit 34.

36. A true and correct copy of *Anderson v. Smith*, CIV 82-116E (W.D.N.Y. May 23, 1984), is attached hereto as Exhibit 35.

37. A true and correct copy of *Anderson v. Smith*, 751 F.2d 96 (2d Cir. 1984), is attached hereto as Exhibit 36.

38. A true and correct copy of *Forman v. Smith*, 482 F. Supp. 941 (W.D.N.Y. 1979), is attached hereto as Exhibit 37.

39. True and correct copies of excerpts of the *Huntley* hearing transcript in *People v. Cooper*, Ind. No. 45,887-A (Erie Cnty.), are attached hereto as Exhibit 38.

40. True and correct copies of excerpts of the trial transcript in *People v. Cooper, et al.*, Ind. No. 45,887-A (Erie Cnty.), are attached hereto as Exhibit 39.

41. A true and correct copy of *People v. Cooper*, 101 A.D.2d 1 (4th Dep't 1984), is attached hereto as Exhibit 40.

42. A true and correct copy of *People v. Royle*, 84 A.D.2d 932 (4th Dep't 1981), is attached hereto as Exhibit 41.

43. A true and correct copy of *People v. Davis and Rollins*, Ind. No. 82-1064 (Sup. Ct. Erie Cnty. Apr. 15, 1985), is attached hereto as Exhibit 42.

44. A true and correct copy of the Buffalo Defendants' Responses and Objections to Plaintiffs' First Set of Interrogatories and Responses to Requests for Production of Documents, dated October 31, 2022, is attached hereto as Exhibit 43.

45. A true and correct copy of the Buffalo Police Department Manual of Procedures, as produced by the Buffalo Defendants on October 31, 2022, is attached hereto as Exhibit 44.

46. A true and correct copy of Family Court Act § 724, as of 1975, is attached hereto as Exhibit 45.

47. A true and correct copy of a letter from Peter Sahasrabudhe to Plaintiffs' counsel, dated November 28, 2022, is attached hereto as Exhibit 46.

48. A true and correct copy of a transcript of the deposition of Alan Hirsch, dated April 30, 2024, is attached hereto as Exhibit 47.

49. A true and correct copy of the Buffalo Defendants' Amended Responses and Objections to Specific Interrogatories, dated January 20, 2023, is attached hereto as Exhibit 48.

50. A true and correct copy of the Buffalo Police Department personnel record of Leo Donovan is attached hereto as Exhibit 49.

51. A true and correct copy of a P-73 signed by Leo Donovan, dated July 21, 1972, from the Buffalo Police Department's Martin Grant Homicide File is attached hereto as Exhibit 50.

52. True and correct copies of excerpts from the trial transcript and exhibits in *Ortiz v. Stambach*, 16-cv-321 (W.D.N.Y.), are attached hereto as Exhibit 51.

53. A true and correct copy of a transcript of the deposition of Jerry Solomon, dated September 12, 2023, is attached hereto as Exhibit 52.

54. A true and correct copy of a transcript of the deposition of Jerry Solomon, dated October 3, 2023, is attached hereto as Exhibit 53.

55. A true and correct copy of a transcript of the deposition of Debra Carosa, dated November 10, 2023, is attached hereto as Exhibit 54.

56. A true and correct copy of Defendant County of Erie's Supplemental Responses and Objections to Plaintiffs' First Set of Interrogatories and Requests for Production of Documents, dated August 31, 2023, is attached hereto as Exhibit 55.

57. A true and correct copy of an affidavit of Martin J. Littlefield in *People v. Terry*, Ind. No. 45,881-B (Erie Cnty.), dated October 16, 1979, is attached hereto as Exhibit 56.

58. A true and correct copy of the Respondent's Brief in *People v. Terry*, dated September 28, 1981, is attached hereto as Exhibit 57.

59. A true and correct copy of the Appellant's Brief in *People v. Terry* is attached hereto as Exhibit 58.

60. A true and correct copy of a discovery response and Bill of Particulars by George B. Quinlan, Jr. in *People v. Cadby*, Ind. No. 44,318 (Erie Cnty.), dated February 21, 1979, is attached hereto as Exhibit 59.

61. True and correct copies of excerpts of the trial transcript in *People v. Cadby*, Ind. No. 44,318 (Erie Cnty.), as reproduced in the Record on Appeal, are attached hereto as Exhibit 60.

62. True and correct copies of excerpts of the trial transcript in *People v. Clark, et al.*, Ind. 42-262-B (Erie Cnty.), are attached hereto as Exhibit 61.

63. A true and correct copy of the Erie County District Attorney's Office's Case Card for *People v. Clark, et al.*, Ind. No. 42,262-B (Erie Cnty.), is attached hereto as Exhibit 62.

64. A true and correct copy of a letter from James McLeod to David Henry, dated June 27, 1977, is attached hereto as Exhibit 63.

65. A true and correct copy of a letter from David Henry to James McLeod, dated June 29, 1977, is attached hereto as Exhibit 64.

66. A true and correct copy of an excerpt of the Appellant's Appendix in *People v. Ivey*, containing an excerpt of the trial transcript, is attached hereto as Exhibit 65.

67. A true and correct copy of the Respondent's Brief in *People v. Ivey*, dated April 29, 1981, is attached hereto as Exhibit 66.

68. A true and correct copy of *People v. Moore*, 26 A.D.2d 902 (4th Dep't 1966), is attached hereto as Exhibit 67.

69. A true and correct copy of *People v. Slaughter*, 28 A.D.2d 1082 (4th Dep't 1967), is attached hereto as Exhibit 68.

70. A true and correct copy of *People v. Zachery*, 31 A.D.2d 732 (4th Dep't 1968), is attached hereto as Exhibit 69.

71. A true and correct copy of *People v. Washington*, 32 A.D.2d 605 (4th Dep't 1969), is attached hereto as Exhibit 70.

72. A true and correct copy of *People v. Damon*, 24 N.Y.2d 256 (1969), is attached hereto as Exhibit 71.

73. A true and correct copy of *People v. Cardinale*, 35 A.D.2d 1073 (4th Dep't 1970), is attached hereto as Exhibit 72.

74. A true and correct copy of *Mistrial Declared in Attack Case*, an article in the Buffalo Evening News, dated August 22, 1973, is attached hereto as Exhibit 73.

75. A true and correct copy of *DA May Appeal Dismissal in Case Of Patrolman*, an article in the Buffalo Evening News, dated December 27, 1973, is attached hereto as Exhibit 74.

76. A true and correct copy of *People v. Reingold*, 44 A.D.2d 191 (4th Dep't Apr. 11, 1974), is attached hereto as Exhibit 75.

77. A true and correct copy of *People v. Freeland*, 45 A.D.2d 814 (4th Dep't June 27, 1974), is attached hereto as Exhibit 76.

78. A true and correct copy of *People v. Ketchum*, 35 N.Y.2d 740 (Oct. 23, 1974), is attached hereto as Exhibit 77.

79. A true and correct copy of *People v. Donaldson*, 49 A.D.2d 1004 (4th Dep't Oct. 24, 1975), is attached hereto as Exhibit 78.

80. A true and correct copy of *People v. Greer*, 49 A.D.2d 297 (4th Dep't Nov. 6, 1975), is attached hereto as Exhibit 79.

81. A true and correct copy of *New Trial Ordered in Arson Death*, an article in the Buffalo Evening News, dated February 27, 1976, is attached hereto as Exhibit 80.

82. A true and correct copy of *People v. Balsano*, 51 A.D.2d 130 (4th Dep't Feb. 20, 1976), is attached hereto as Exhibit 81.

83. A true and correct copy of *People v. Weston*, 51 A.D.2d 881 (4th Dep't Feb. 24, 1976), is attached hereto as Exhibit 82.

84. A true and correct copy of the Appellant's Brief in *People v. Mordino* is attached hereto as Exhibit 83.

85. A true and correct copy of the Respondent's Brief in *People v. Mordino*, dated May 3, 1977, is attached hereto as Exhibit 84.

86. A true and correct copy of *People v. Mordino*, 58 A.D.2d 197 (4th Dep't July 12, 1977), is attached hereto as Exhibit 85.

87. True and correct copies of *Judge Declares Mistrial In McKinley Slaying Case*, an article in the Buffalo Evening News, dated April 19, 1978, and *Judge Grants Mistrial In Knifing Case*, an article in the Buffalo Courier Express, are attached hereto as Exhibit 86.

88. A true and correct copy of *Reese Murder Case Ends in Mistrial*, an article in the Buffalo Evening News, dated January 23, 1979, is attached hereto as Exhibit 87.

89. A true and correct copy of the Appellant's Brief in *People v. Cadby*, dated December 11, 1979, is attached hereto as Exhibit 88.

90. A true and correct copy of the Respondent's Brief in *People v. Cadby*, dated January 14, 1980, is attached hereto as Exhibit 89.

91. A true and correct copy of the Appellant's Reply Brief in *People v. Cadby*, dated January 1980, is attached hereto as Exhibit 90.

92. A true and correct copy of *People v. Cadby*, 75 A.D.2d 713 (4th Dep't Apr. 8, 1980), is attached hereto as Exhibit 91.

93. A true and correct copy of the Erie County District Attorney's Office's Case Card for *People v. Johnson*, Ind. No. 41,283 (Erie Cnty.), is attached hereto as Exhibit 92.

94. A true and correct copy of *People v. Johnson*, 62 A.D.2d 555 (4th Dep't June 2, 1978), is attached hereto as Exhibit 93.

95. A true and correct copy of the Appellant's Brief in *People v. Johnson*, dated February 23, 1978, is attached hereto as Exhibit 94.

96. A true and correct copy of the Respondent's Brief in *People v. Johnson*, dated March 10, 1978, is attached hereto as Exhibit 95.

97. A true and correct copy of *Johnson v. Smith*, CIV-81-329E (W.D.N.Y. Feb. 18, 1984), is attached hereto as Exhibit 96.

98. True and correct copies of *Improper Questions Cause Mistrial Order*, an article in the Buffalo Evening News, dated November 7, 1978, and *Mistrial Declared In Killing Case*, an article in the Buffalo Courier Express, are attached hereto as Exhibit 97.

99. A true and correct copy of *People v. Keller*, 67 A.D.2d 153 (4th Dep't Apr. 6, 1979), is attached hereto as Exhibit 98.

100. A true and correct copy of the Erie County District Attorney's Office's Case Card for *People v. Keller*, Ind. No. 43,222 (Erie Cnty.), is attached hereto as Exhibit 99.

101. A true and correct copy of the Appellant's Brief in *People v. Keller*, dated December 28, 1978, is attached hereto as Exhibit 100.

102. A true and correct copy of the Respondent's Brief in *People v. Keller*, dated January 25, 1979, is attached hereto as Exhibit 101.

103. A true and correct copy of *People v. King*, 72 A.D.2d 930 (4th Dep't Nov. 16, 1979), is attached hereto as Exhibit 102.

104. A true and correct copy of the Respondent's Brief in *People v. King*, dated August 3, 1979, is attached hereto as Exhibit 103.

105. A true and correct copy of the Appellant's Brief in *People v. King*, dated November 27, 1978, is attached hereto as Exhibit 104.

106. A true and correct copy of *Charges Dismissed In Stolen-Truck Sale*, an article in the Buffalo Evening News, dated April 15, 1980, is attached hereto as Exhibit 105.

107. A true and correct copy of *Insurance-Fraud Charge Against Officer Dropped*, an article in the Buffalo Evening News, dated May 15, 1980, is attached hereto as Exhibit 106.

108. A true and correct copy of *Mistrial Is Declared Over Questioning Of Zurenda's Sister*, an article in the Buffalo Evening News, dated October 8, 1980, is attached hereto as Exhibit 107.

109. A true and correct copy of *Mistrial Ruled On Tape Delay In Potenza Case*, an article in the Buffalo Evening News, dated October 20, 1980, is attached hereto as Exhibit 108.

110. A true and correct copy of *Matter of Potenza v. Kane*, 79 A.D.2d 467 (4th Dep't Mar. 27, 1981), is attached hereto as Exhibit 109.

111. A true and correct copy of *People v. Mordino*, 83 A.D.2d 775 (4th Dep't July 9, 1981), is attached hereto as Exhibit 110.

112. A true and correct copy of the Erie County District Attorney's Office's Case Card for *People v. Mordino*, Ind. No. 40,130 (Erie Cnty.), is attached hereto as Exhibit 111.

113. A true and correct copy of the Appellant's Brief in *People v. Mordino* (corresponding to Mordino's second appeal, following his 1978 retrial) is attached hereto as Exhibit 112.

114. A true and correct copy of the Respondent's Brief in *People v. Mordino* (corresponding to Mordino's second appeal, following his 1978 retrial), dated April 13, 1981, is attached hereto as Exhibit 113.

115. A true and correct copy of the Appellant's Reply Brief in *People v. Mordino* (corresponding to Mordino's second appeal, following his 1978 retrial) is attached hereto as Exhibit 114.

116. A true and correct copy of *People v. Ivey*, 83 A.D.2d 788 (4th Dep't July 9, 1981), is attached hereto as Exhibit 115.

117. A true and correct copy of Erie County District Attorney's Office's Case Card for *People v. Ivey*, Ind. No. 41,538 (Erie Cnty.), is attached hereto as Exhibit 116.

118. A true and correct copy of the Appellant's Brief in *People v. Ivey* is attached hereto as Exhibit 117.

119. A true and correct copy of *City Judge Voids Conviction Of Ciccarelli in Sex Assault Case*, an article in the Buffalo Evening News, dated November 14, 1981, is attached hereto as Exhibit 118.

120. A true and correct copy of *People v. Terry*, 83 A.D.2d 491 (4th Dep't Dec. 23, 1981), is attached hereto as Exhibit 119.

121. A true and correct copy of the Respondent's Brief in *People v. Donaldson*, dated July 29, 1975, is attached hereto as Exhibit 120.

122. A true and correct copy of Plaintiffs Darryl Boyd and John Walker Jr.'s First Set of Interrogatories and Requests for Production to the County of Erie, dated September 29, 2022, is attached hereto as Exhibit 121.

123. A true and correct copy of *Witness Says Two Men Invited Him to Join in Fatal Beating at Tavern*, an article in the Buffalo Evening News, dated March 15, 1977, is attached hereto as Exhibit 122.

124. A true and correct copy of *DA Forms Unit To Prosecute Career Criminals*, an article in the Buffalo Evening News, dated May 18, 1979, is attached hereto as Exhibit 123.

125. A true and correct copy of *17 Candidates Screened For U.S. Attorney Post*, an article in the Buffalo Evening News, dated February 14, 1980, is attached hereto as Exhibit 124.

126. A true and correct copy of a letter from Joseph Tatar to Edward Cosgrove, dated September 1, 1976, is attached hereto as Exhibit 125.

127. A true and correct copy of the cover page of the trial transcript in *People v. Smith*, Ind. No. 40,954 (Erie Cnty.), is attached hereto as Exhibit 126.

Dated: New York, New York
June 24, 2024

/s/ Joel B. Rudin
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